MONTANA LEGISLATIVE HISTORY

Chapter 218 19 81

Bill H 492 S _____ Original bill & history ___C

H. Committee on	Business & Industry		S. Committee on	Business & Industry	
Hearing Date(s)	2/12	___C	Hearing Date(s)	3/16	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	2/19	___C		3/16	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

490—JACOBSEN, SIVERTSEN, DEVLIN, ET AL—TO REVISE THE RATE AT WHICH AGRICULTURAL IMPLEMENTS AND EQUIPMENT ARE TAXED.
FISCAL NOTE: REQUIRED
INTRODUCED: 1/26
REFERRED TO COMMITTEE ON TAXATION: 1/26
HEARING: 1/30
REPORT: DO NOT PASS, 2/3
REPORT: ADOPTED, 2/5
BILL KILLED: 2/5 YEAS: 70; NAYS: 27

491—VINGER, FEDA—APPROPRIATING FUNDS TO THE DEPARTMENT OF HIGHWAYS FOR THE PURPOSE OF COMPLETING A PORTION OF SECONDARY ROUTE 248.
INTRODUCED: 1/26
REFERRED TO COMMITTEE ON APPROPRIATIONS: 1/26
HEARING: 3/27
REPORT: DO NOT PASS, 3/27
REPORT: ADOPTED, 3/28
BILL KILLED, 3/28 YEAS: 79; NAYS: 14

492—MEYER, FABREGA, HEMSTAD—PROVIDING FOR OPEN-END LOANS BY THE HOLDER OF A SUPPLEMENTARY LICENSE UNDER THE MONTANA CONSUMER LOAN ACT.
INTRODUCED: 1/26
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/26
HEARING: 2/12
REPORT: DO PASS AS AMENDED, 2/19
2ND READING: 2/21 YEAS: 89; NAYS: 1
3RD READING: 2/24 YEAS: 97; NAYS: 0

TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON BUSINESS: 3/2
HEARING: 3/16
REPORT: 3/16, BE CONCURRED IN
2ND READING: 3/19, BE CONCURRED IN
3RD READING: 3/21, YEAS: 46; NAYS: 2

RETURNED TO HOUSE: 3/21
TRANSMITTED TO GOVERNOR: 3/27
ACTION: SIGNED, 3/31
CHAPTER 218

493—TEAGUE, CONROY, O'CONNELL, ET AL—TO ALLOW NONPROFIT GROUPS TO AWARD CASH PRIZES FOR BINGO.
INTRODUCED: 1/26
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/26
HEARING: 2/18
REPORT: DO PASS AS AMENDED, 2/19
ON MOTION, 2/21, PASSED FOR THE DAY.
2ND READING: 2/23, YEAS: 60; NAYS: 31
ON MOTION, 2/24, RETURNED TO THE COMMITTEE ON BUSINESS & INDUSTRY.
BILL DIED IN COMMITTEE

494—CURTISS, ASAY—TO REQUIRE THE BOARD OF NATURAL RESOURCES TO ALLOW ADEQUATE TIME FOR A CONSERVATION DISTRICT TO DEVELOP A PLAN TO UTILIZE ITS RESERVATION OF WATER....
INTRODUCED: 1/26
REFERRED TO SELECT COMMITTEE ON WATER: 1/26
HEARING: 2/10
REPORT: DO PASS AS AMENDED, 2/10

HOUSE BILL NO. 492

INTRODUCED BY MEYER, FABREGA, HEMSTAD

IN THE HOUSE

January 26, 1981	Introduced and referred to Committee on Business and Industry.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks.
	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 97; Noes, 0. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Business and Industry.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 18, 1981	Motion pass consideration.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in. Ayes, 46; Noes, 2.

IN THE HOUSE

March 23, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

47th Legislature

HOUSE BILL NO. 492

INTRODUCED BY Meyer Eskegaard Hemstad

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OPEN-END LOANS BY THE HOLDER OF A SUPPLEMENTARY LICENSE UNDER THE MONTANA CONSUMER LOAN ACT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Open-end loans. (1) A holder of a supplementary license may make open-end loans up to the maximum amount permitted for other loans under this chapter and may contract for and receive charges at a rate not in excess of the rate set forth in 32-5-301(10) on unpaid balances outstanding from time to time for the actual time outstanding.

(2) A holder of a supplementary license may not compound charges by adding any unpaid charges authorized by this section to the unpaid principal balance of the borrower's account; however, the unpaid principal balance may include the additional charges authorized by [section 4] and by 32-5-301(7).

Section 2. Computation of charges. (1) Charges authorized by [sections 1 through 6] shall be computed in each billing cycle by any of the following methods:

(a) by converting the monthly rate to a daily rate and multiplying such daily rate by the daily unpaid principal balance of the account; or

(b) by multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(c) by multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle.

(2) For purposes of [sections 1 through 6], "billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than 4 days from such date.

(3) For all of the above methods of computation, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

Section 3. Early payment. The borrower may at any time pay all or any part of the unpaid balance in his account, or if the account is not in default, the borrower may pay the

unpaid principal balance in monthly installments, subject to minimum payment requirements as determined by the licensee and set forth in the open-end loan agreement. Minimum monthly payments shall be in such amount as would result in the full repayment of the initial loan advance, exclusive of any charges, within the maximum term set forth for other loans of the same amount in 32-5-302(1).

Section 4. Additional charges. In addition to the charges permitted under [section 1], a holder of a supplementary license may contract for and receive the fees, costs, and expenses permitted by this chapter on other loans, subject to all the conditions and restrictions set forth in the applicable provisions of this chapter with the following variations:

(1) If credit life or disability insurance is provided and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance must be sufficient to pay, in the case of credit life insurance, the total balance of the loan due on the date of the borrower's death or, in the case of credit disability insurance, all minimum payments that become due on the loan during the covered period of disability. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such

insurance, as such rate may be determined by the commissioner of insurance, to the unpaid balances in the borrower's account, using either of the methods specified in [section 2] for the calculation of loan charges.

(2) The amount, terms, and conditions of any insurance against loss or damage to property must be reasonable in relation to the character and value of the property insured and the maximum anticipated amount of credit to be extended.

Section 5. Security. A holder of a supplementary license may take a security interest in personal property to secure an open-end loan, and may retain any such security interest until the open-end account is terminated. A holder of a supplementary license may take a security interest in real property to secure an open-end loan, and may retain any such security interest until the open-end account is terminated; however, if there is no outstanding balance in the account and there is no commitment by the licensee to make additional advances the licensee shall, within 10 days following written request by the borrower, deliver to the borrower a release of the mortgage or a request for reconveyance of the deed of trust or trust indenture on any real property taken as security for a loan.

Section 6. Provisions not applicable. The provisions of subsections (5) and (6) of 32-5-301 and the provisions of 32-5-304 do not apply to open-end loans.

Section 7. Codification instruction. Sections 1 through 6 are intended to be codified as an integral part of Title 32, chapter 5, and the provisions of Title 32, chapter 5, apply to sections 1 through 6.

-End-

#26

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 12, 1981

SUMMARIES OF

HOUSE BILL 492 -

HB 492, introduced by Rep. Meyer and others, allows open-end loans by the holder of a supplementary license under the Montana Consumer Loan Act. Interest rates may not exceed 1-1/2% per month. Charges may not be payable in advance or compounded.

HOUSE BILL 510 -

HB 510, introduced by Rep. Lory and others, allows a contractor with the state or other government entity to post, in lieu of a surety bond, cash, cashier's or certified check, bank draft, certificates of deposit or money market certificates equal to the contract sum. On a bond, the bill limits the surety to a licensed surety company.

HOUSE BILL 515 -

HB 515, introduced by Rep. Manning and others, gives the Public Service Commission power to require the furnishing of all information needed for an independent audit of a regulated utility, and appropriates $200,000 for the biennium.

HOUSE BILL 569 -

HB 569, introduced by Rep. Kemmis and others, equalizes at 7% per year interest a public utility may charge for installing and paying for energy conservation materials or non-fossil forms of energy generation systems in a dwelling. Under present law, rate is 7% for energy conservation materials and between 5% and 7% for energy generation systems. Maximum tax credit for a utility under this bill would be raised to $500,000 per year from $200,000 on the difference between the interest it actually receives and the interest it would receive at the prevailing rate.

Rep. Fabrega reminded HB 515 allows $200,000 for independent audits. Mr. Clark said the independent auditor is Price Waterhouse. Because of the Securities and Exchange Act they have to make audits. Those independent auditors provide several different services.

Rep. Ellerd asked if there is something suspected of being wrong when an audit is made? Mr. Schneider said not necessarily. They want facts and figures that go into a rate case. There was $200,000 allocated two years ago. It was a matter of presenting a case to the Commission that would go into details. Rep. Ellerd asked Mr. Paine if the consumers feel there is a necessity to run a private audit. Mr. Paine said he didn't know of any. Certainly the subscribers out there want some assurance there is nothing wrong with the books of the utilities. They do not look at the invoices and the back up documents to those figures. They visit their offices and go over their books and records, but it is not in depth as to what they take from their invoices into the main books.

Rep. Fabrega asked if it is a different kind of information other than what is normally shown that satisfies corporate profit and loss requirements. Mr. Schneider said it is not so much the difference but the time it is done. Rate cases are filed 2-3 times a year. They need ongoing and immediate capability to assure it is cost-effective.

Rep. Andreason said with inflation as it is and companies filing frequently you must have to check very frequently on an ongoing basis. What would an audit get at that you seek very frequently? Mr. Schneider said it is the big lags that they are working with. The Consumers Council does not have computer capability. They are not pleased with either the depth or quality of information supplied in order to do what should be done.

FERC audits are already a year out of date when they are available. Mr. Schneider thinks full time employees provide a more cost effective way to go. This is an important addition to the process. He supports this bill.

Rep. Vincent asked if some of the $200,000 would be used on water and sewer cases. Mr. Schneider advised telephone, water and sewer would take a big chunk of it. They are going into a $15.8 million rate case. The $200,000 will do a substantial job and will be used on a priority basis.

Rep. Manning closed saying the problem he ran into while campaigning was the high cost of energy. His district has a lot of poor people, middle income and older people. An independent audit might reflect something, but he didn't know for sure.

HOUSE BILL 492 -

REP. DARRYL MEYER, District #42, Cascade County, chief sponsor explained HB 492 provides for open-end loans by the holder of a supplementary license under the Montana Consumer Loan Act. It allows a person to set up a line of credit at a credit institution and he can draw on that credit at

periodic times.

JERRY LOENDORF, Montana Consumer Finance Association, Helena, supports HB 492. It would permit a loan company to offer open-end loans. Consumer loan companies are authorized to make this kind of loans all over the country. Retailers are now authorized to use this type of credit. In closed-end transactions you apply for a loan for say $10,000 and you disperse that loan, whereas an open-end loan allows you to apply that amount as a credit and you can withdraw on that amount over a period of time if you so desire. It works favorably for everybody. Interest begins running on the entire amount immediately even though some of the money might still be in the bank for awhile on a closed-end loan. In the open-end situation he can take out the money when he needs it, at which time interest begins on the amount taken out. This would save making out several loan applications, and paying additional filing fees, and other related expenses for everybody involved. The terms are about the same on both types of loans as is the security.

Section 1 authorizes the making of loans in amounts now permitted for closed-end loans, and on interest charged. There is no provision for additional charges to be made. It allows amounts paid to public officials to be made part of the loan and charged to the borrower. There are three methods for computing charges. If you utilized the 30-day monthly account, the amount will come out the same no matter which method is used. Line 15 refers to a monthly billing cycle and allows that billing cycle if it doesn't vary more than 4 days. Section 3 provides for the payment over a term provided in the contract.

Consumer loan companies have certain restrictions placed on them and those restrictions would be carried over to this bill for open-end loans. Section 4 - additional charges - is not very descriptive. Charges for insurance in cases where insurance is required in an amount large enough to pay off a loan in case of a disability or a death could be required. Really should apply to all if you require property insurance and you have property worth $10,000, you wouldn't require $20,000 of insurance or if you make a $5,000 loan, even if the property is worth $10,000, only $5,000 would be required.

Section 5 provides for security taking for a loan. Home improvement loans would probably take a second mortgage. Section 6 - certain things are not applicable for open-end loans. It provides for a method of making refunds for add-on loans as well as for default charges. 32-5-304 to which reference is made would apply to open-end loans and receipt for payment. If any additional amount is taken in that month, that would also be shown.

OPPONENTS: None

QUESTIONS -

Rep. Ellison was told consumer loan companies are the only institutions that are prevented from having open-end loans. Rep. Pabrega said this has 18% rate, so this basically gives the consumer loans the same flexibility as those that can give charge cards, but it is pre-arranged at one level. This would be the same concept.

Rep. Robbins asked whether credit liability would be forced upon a person who has such insurance in another state. Mr. Loendorf said that could be made a part of the loan. The truth in lending has nothing to do with this. If you do this, you disclose it. There is a federal requirement that you allow a person an opportunity to get insurance wherever they want. They would have that opportunity. This would entail consumer finance companies. Savings and loans already have the same authority. When this was originally enacted, it required a license and then required a supplementary license if loans over $1,000 were made. Consumer loans were exempted before because they were closed-end transactions. The 1-1/2% interest rate would be on the unpaid balance for the month. When a payment is credited, interest costs are credited first. Mr. Loendorf recommended an amendment on page 1, line 20 following "the" to strike: "additional charges" and insert: "fees paid to third parties as".

Rep. Meyer closed.

EXECUTIVE SESSION -

Rep. Kitselman moved HOUSE BILL 569 DO PASS. He further moved an immediate effective date be added. Both motions were unanimously adopted.

Rep. Manning moved HOUSE BILL 515 DO PASS. He said the reason for this bill was that the PSC was given $200,000 to perform a private audit on the MPC books because of a trade or transfer of property that was made back in the 1900s. It was originally supposed sold to MPC and the federal government came along in later years because the figures that were used in the original sale were way too high. The Supreme Court said the PSC would have the right to audit their books for this one transaction.

They have negotiated and Montana Power wants to amortize this $15 million and PSC wants them to wipe it off right now because they aren't entitled to it. It will mean a great deal of savings to Montana ratepayers. They must assure consumers that they are honest and that the PSC is doing the very best they can within their power to keep them honest and that everything that should be allowed is being allowed.

Rep. Andreason spoke against the motion saying he thinks the more efficient way would be to give the PSC more money for audits. He thinks the appropriations committee should be looking at this - he felt this was a backdoor way of going into the appropriations committee. He has nothing against checking on the utilities, but it should be done through the proper channels in terms of the appropriations committee and using online staff and not paying for a very much more expensive third party. This doesn't give any substantive powers to PSC.

Rep. Ellison made a substitute motion that HOUSE BILL 515 DO NOT PASS.

Rep. Harper made a substitute motion for all motions pending that HOUSE BILL 515 BE TABLED. Reps. Ellerd, O'Hara, Andreason, Ellison voted No. Motion carried 15-4. Because this is an appropriation bill, this could go out after transmittal date. This would provide funding for an independent audit and if they don't get additional staff, this would be available.

VISITORS' REGISTER

HOUSE BH COMMITTEE

BILL H 492 Date 2/12

SPONSOR Mexel 492

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Jerry T Lindell	Helena	Mt Cattle Feeders	✓	
Joe H. Irwin	Great Falls	" " "	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

mortgages and bankers tell him that it is easy to do business with other secondary mortgages rather than the Board of Investments and a higher criteria. If you are only going to buy the best loans then you can insist on the highest possible yield. The interim study could really dig into and find out and give a comprehensive report.

Rep. Ellerd questions whether there has ever been a worthwhile study such as this done. Mr. Cadby thought the bank shares study was worthwhile. Rep. Fabrega mentioned it would be necessary to have some people with expertise on such a study committee.

EXECUTIVE SESSION -

Rep. Manning moved HOUSE JOINT RESOLUTION 29 DO PASS. Motion carried with Reps. Jacobsen and Ellerd voting No, and four were absent.

Rep. Wallin moved to UNTABLE HOUSE BILL 349. Motion carried. (This bill was introduced for the purpose of reducing the high cost of liability insurance.) Rep. Wallin moved previously proposed amendments be adopted. Motion carried with Reps. Andreason, Metcalf, Harper voting No. Rep. Andreason moved HOUSE BILL 349 BE TABLED AS AMENDED. Reps. Kitselman, Robbins, Jacobsen, Ellerd, Wallin voted No. Motion carried.

Rep. Jensen moved HOUSE BILL 713 DO PASS. Motion carried unanimously.

Rep. Kitselman moved HOUSE BILL 671 DO PASS. He further moved to adopt proposed amendments and these were unanimously approved. Rep. Kitselman reworded his motion to HOUSE BILL 671 DO PASS AS AMENDED. Motion carried unanimously.

Rep. Kitselman moved HOUSE BILL 625 DO PASS. Rep. Jensen moved that HB 625 be amended to show an effective date to be on passage and approval. Motion carried unanimously. Rep. Kitselman then moved HOUSE BILL 625 DO PASS AS AMENDED. Motion carried unanimously.

Rep. Jensen moved HOUSE BILL 597 DO NOT PASS. Rep. Kitselman made a substitute motion HOUSE BILL 597 BE TABLED. This motion carried 18 - 1 - Rep. Ellerd voted No.

Rep. Ellerd moved HOUSE BILL 612 BE TABLED. Motion carried unanimously.

Rep. Meyer moved HOUSE BILL 492 DO PASS. Rep. Meyer further moved HB 492 be amended. (This is the consumers loan act - limited to using 18% maximum rate.) Amendment carried with Rep. Kitselman voting No. Motion was reworded by Rep. Meyer to HOUSE BILL 492 DO PASS AS AMENDED. Motion carried with Rep. Kitselman voting No.

HEARING CONTINUED -

HOUSE BILL 701 -

REP. CALVIN WINSLOW, House District #65, Yellowstone County, chief sponsor at the request of the Department of Professional and Occupational

QUESTIONS FROM THE COMMITTEE:

SENATOR BLAYLOCK: Why would they put it back down to $20,000.

MR. KEMMIS: The equity that is being protected had something to do with it.

SENATOR KOLSTAD: Will these sections you address change the bankruptcy exemption.

MR. KEMMIS: This will change that.

SENATOR LEE: We would be allowing an individual to now get $40,000.

MR. KEMMIS: You don't get $40,000 in cash, this is a credit.

Discussion followed for several minutes.

SENATOR GOODOVER: What if someone is in a subdivision and they can only keep one acre out of a five, what do they do with the other four acres.

MR. KEMMIS: I believe that is covered, where you can only protect your allowable acre.

Discussion followed, and the questions was raised whether you might have to seek a variance.

The hearing closed on House Bill No. 550.

HOUSE BILL NO. 492: Representative Meyer, District #42 presented the bill. The bill allows the holder of a supplementary license under the Consumer Loan Act to make open-end loans. Interest would be at 2% per month as per HB 321. The unpaid balance on which interest is charged would be allowed to include insurance and filing and recording fees. It would allow a person to set up a line of credit at a finance company, such as if you are building a home but you would not need all of the money at one time, but would withdraw as you go along.

JERRY LOENDORF representing the Montana Consumer Finance Association, spoke in favor of the bill. This is allowed by Consumer Loan Companies across the United States. There is no prohibition against this, it was just never provided for. This would be an open-end loan, where people might take more than a year to do this. He went on to discuss how the provisions would help both lender and buyer. It is much cheaper to get a loan from a Consumer Loan Company. This would allow open-end loans to be made in the same manner as closed-end loans.

The bill provides three different methods of computing billing cycles. There is a provision for payment. Section 4 deals with insurance, such as credit life, property, etc. Page 5 simply provides for security for the lender.

NO OTHER PROPONENTS:

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR KOLSTAD: Who makes the determination that this insurance is adequate.

MR. LOENDORF explained the insurance procedures. There would be credit life insurance in the amount of the loan. This is commonly done now. They would have to take into account the declining amount.

There was no other discussion and the hearing closed on HB 550.

HOUSE BILL NO. 702: Representative Winslow, District #65 presented the bill. He said the bill establishes a ceiling of $10 on the charge the department of administration may impose for receiving and processing a condition report for each elevator in any building. At the present time the reports are sent on to the Department of Administration. On page 1, line 16, it says a reasonable and uniform fee for the inspection, we would like to change this to $10 per elevator instead of $25, where it states the amount on line 8 on page 2.

CHAD SMITH: Montana Hospital Association. This is a follow-up to the bill in the 1979 session dealing with the same matter. He went on to discuss who has the responsibility of an elevator rather than the state. The fee used to be $50. After the responsibility, for the most part, was turned over to the insurance people it was changed to $25. We are asking that a determination be made of what a reasonable fee is. We feel that without this we cannot control the limitations. He mentioned other people in favor of the bill, Representative Fagg and some others.

W. JAMES KEMBLE: Department of Administration. We can live with the bill as it was amended by the House. I am here to answer your questions.

FOREST BOLES: Montana Chamber of Commerce spoke in support of the bill. Since this is an improvement of the 1979 bill we can support it.

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR DOVER moved the amendments. The motion carried on a vote of 6 to 2.

SENATOR DOVER moved as amended, be concurred in. The motion carried with the vote unanimous. Senator Van Valkenburg will carry since he is a co-sponsor.

HOUSE BILL NO. 492:

SENATOR LEE moved be concurred in. Then followed discussion about the interest rate and what this bill will let them do. It was stated that many open-end loans would be 2% per month but that the closed-end loans would vary.

The motion carried with Senators Regan and Blaylock voting no with a vote of 6 to 2. Senator Lee will carry.

HOUSE BILL NO. 106:

SENATOR KOLSTAD moved be concurred in. The motion carried with the vote unanimous. Senator Kolstad will carry.

The meeting adjourned at 11:55 a.m.

Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

STANDING COMMITTEE REPORT

March 16, 19 81

MR. PRESIDENT:

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 492

Meyer (Senator Lee)

Respectfully report as follows: That HOUSE Bill No. 492

BE CONCURRED IN

XXXXX
DO PASS

Frank W. Hazelbaker, Chairman.

STATE PUB. CO.
Helena, Mont.